THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.17737 of 1999

16.8.2005

Between:

Jampana Subramanyam Raju, S/o Venkata Narsimha Raju,
R/o Akiveedu, West Godavari District

..... PETITIONER

AND

1 The Divisional Forest Officer, Wild Life Management, Eluru
2 The Deputy Range Officer, Wild Life Management, Eluru

.....RESPONDENTS

ORDER:

The petitioner is the owner of heavy earth moving machinery i.e., excavator bearing No.BEML SL No.C-10844, Model No.RE 220 LC. He gave the said vehicle for excavation of fish tanks at Pandiripalligudem village. The second respondent registered a crime being Crime No.OR.60/1999-2000 under Sections 27, 29 and 51 of the Wild Life Protection Act, 1972 (the Act) and also seized the petitioner's excavator. Assailing which, the present writ petition is filed. *Inter alia*, it is contended that under the provisions of Section 27 of the Act, no power is vested in the respondents to seize the excavator.

This Court while admitting the writ petition directed the respondents to release the excavator on petitioner furnishing a bank guarantee. Accordingly, the vehicle was released.

A reading of Section 27 of the Act would show that the respondents do not have any such power to seize the excavator, unless the same is used in the commission of offence described under the Act. This legal position is not denied by the learned Assistant Government Pleader.

The writ petition is, therefore, allowed. The observations made herein above, however, are not intended in any manner to influence the criminal trial launched against the petitioner in Crime No.OR.60/1999-2000. There shall be no order as to costs.

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(**V.V.S.RAO,J**)

August 16, 2005.

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